IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO. 256 OF 1998.

The Commissioner of Income-tax. ... Appellant.

V/s.

Tirumalai Chemicals Ltd. ... Respondent.

Ashok Kotangale with Parag Vyas for the applicant.

S.J.Mehta for the respondent.

CORAM : V.C.DAGA AND J.P.DEVADHAR, JJ.

DATED : 4th October 2005.

P.C. :

. By this reference under section 256(1) of the Income-tax Act, 1961, the Income Tax Appellate Tribunal has referred the following question of law for the opinion of this Court:

> "Whether, on the facts and in the circumstances of the case, the Tribunal was justified in holding that while computing the capital employed in the newly established industrial undertaking for the purpose of relief under sec.80J(1A) of the Income-Tax Act, the subsidy of Rs.15 lakhs received by the assessee from the Government cannot be treated as a liability and should not be excluded from the value of the assets in the computation of capital for the purpose of such relief?

. Learned counsel for the parties agreed that the question sought to be referred to this Court for opinion has already been answered by the Apex Court in the case of **C.I.T. v. P.J.Chemicals Ltd.,**

(1994) 210 ITR 830 (SC) in favour of assessee. Accordingly, the question referred is answered in the affirmative i.e. in favour of assessee and against the Revenue.

. Reference stands disposed of with no order as to costs.

(J.P.DEVADHAR, J.) **(V.C.qDAGA, J.)**